

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of A. J. SOUTHERN, Minor.

UNPUBLISHED

August 12, 2014

No. 320264

Calhoun Circuit Court

Family Division

LC No. 09-003573-NA

Before: RONAYNE KRAUSE, P.J., and WILDER and STEPHENS, JJ.

PER CURIAM.

Respondent-mother appeals the order terminating her parental rights to the minor child under MCL 712A.19b(3)(g) (failure to provide proper care and custody) and (j) (reasonable likelihood child will be harmed if returned to parent). We affirm.

I

“In order to terminate parental rights, the trial court must find by clear and convincing evidence that at least one of the statutory grounds for termination in MCL 712A.19b(3) has been met.” *In re VanDalen*, 293 Mich App 120, 139; 809 NW2d 412 (2011). “We review the trial court’s determination for clear error.” *Id.* “A finding is ‘clearly erroneous’ if, although there is evidence to support it, we are left with a definite and firm conviction that a mistake has been made.” *In re HRC*, 286 Mich App 444, 459; 781 NW2d 105 (2009).

A

The trial court did not clearly err by terminating respondent’s parental rights under MCL 712A.19b(3)(j). Termination is proper under MCL 712A.19b(3)(j) where “[t]here is a reasonable likelihood, based on the conduct or capacity of the child’s parent, that the child will be harmed if he or she is returned to the home of the parent.” The harm to the child contemplated under MCL 712A.19b(3)(j) includes emotional harm as well as physical harm. *In re Hudson*, 294 Mich App 261, 268; 817 NW2d 115 (2011). Here, respondent had a history of alcohol abuse and admitted she is an alcoholic. In 2009, respondent transported the child in a motor vehicle when she had a blood alcohol content of .478 percent. A motor vehicle accident resulted and the child was injured. The minor child was removed from respondent’s care.

In 2011, after the child was returned to respondent’s care, respondent continued to drink alcohol in the presence of the child. She even continued to drink alcohol after being diagnosed with cirrhosis of the liver and after being advised that she would die within six months if she did

not stop drinking alcohol. The child protective services worker testified that the child assumed a parenting role in her relationship with respondent. The child helped respondent to bed each night because she drank to the point that she could not communicate or walk without assistance. In March 2013, the child feared for respondent's life because she was highly intoxicated, screaming for help, and vomiting up blood. The child was again removed from respondent's care.

After the second removal, respondent continued to consume substances. In November 2013, respondent was arrested for violating her probation. She remained incarcerated at the time of the termination hearing. Although respondent testified that she had been sober for nearly 90 days, she had been in jail for a majority of that time.

At the time of termination, the child had been involuntarily removed from respondent's care twice over the course of three years as a result of respondent's alcohol abuse. The record demonstrates that respondent had been unable or unwilling to maintain sobriety in the past despite participating in inpatient and outpatient treatment for a period of 18 months. Contrary to respondent's argument on appeal, the record is devoid of evidence that she was able to properly care for the child at the time of termination. The trial court's finding that termination of respondent's parental rights was proper pursuant to MCL 712A.19b(3)(j) does not leave us with a definite and firm conviction that a mistake has been made. *In re HRC*, 286 Mich App at 459. Because we have concluded that one ground for termination existed, we will not specifically consider the additional ground upon which the trial court based its decision. *Id.* at 461.

B

Respondent next argues that the trial court improperly determined that termination of her parental rights was in the child's best interests. "Once a statutory ground for termination has been proven, the trial court must find that termination is in the child's best interests before it can terminate parental rights." *In re Olive/Metts*, 297 Mich App 35, 40; 823 NW2d 144 (2012). We review a trial court's finding that termination is in the child's best interests for clear error. *In re HRC*, 286 Mich App at 459.

Here, respondent argues that the trial court failed to consider the fact that the child was bonded with her when deciding best interests. But respondent's argument is unsupported by the record because the trial court found that the child expressed concern for respondent and desired to "take care" of her. Although the record supports that respondent and the child loved one another and had bonded, the record also demonstrates that the parent-child bond was not healthy. See *In re CR*, 250 Mich App 185, 196-197; 646 NW2d 506 (2002), rev'd on other grounds *In re Sanders*, 495 Mich 394; ___ NW2d ___ (2014) (the fact that there was a "serious dispute" on the record concerning whether the respondent had "a healthy bond" with her children supported that termination of her parental rights was in the children's best interests). As a result of respondent's alcoholism, the child feared for respondent's life and felt responsible for caring for respondent. Respondent did not see the child while she was incarcerated and the child found telephonic communications with respondent to be stressful. Further, the child progressed during the time that she was out of respondent's care, and she felt more relaxed. *In re CR*, 250 Mich App at 196-197.

Respondent also argues that she should have been provided additional time to participate in services and make progress. However, this Court has to look at the best interests of the child, including her need for stability. *In re Trejo Minors*, 462 Mich 341, 364; 612 NW2d 407 (2000). At the time of termination, respondent admitted that she was unable to care for the child, and the record is void of evidence that she would be able to do so within a reasonable time in the future. The child was “doing very well” in her foster home and was maturing, improving emotionally, and developing healthy boundaries. Her foster parent was interested in adopting her. *In re VanDalen*, 293 Mich App at 141-142. Despite the bond between respondent and the child, termination was necessary so that the child could achieve stability and permanency. See *In re LE*, 278 Mich App 1, 29-30; 747 NW2d 883 (2008); *In re VanDalen*, 293 Mich App at 141 (reviewing whether the foster care home could provide stability and permanency). The trial court did not clearly err in finding that termination of respondent’s parental rights was in the child’s best interests. *In re HRC*, 286 Mich App at 459.

Affirmed.

/s/ Amy Ronayne Krause
/s/ Kurtis T. Wilder
/s/ Cynthia Diane Stephens